IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Bail Appl..No. 6026 of 2007()

CRIME NO. 494/07 OF FORTKOCHI POLICE STATION

PETITIONER/5TH ACCUSED:

M.B. SEBASTIAN, S/O. BAVA,
AGED 66 YEARS, MOOLAYIL VEEDU, KARUVELIPADY,
KOCHI-5.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY S.I. OF POLICE, FORT KOCHI POLICE
STATION THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6026 of 2007

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Dated this the 5th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 5th accused in a crime registered, inter alia, for offences punishable under Sections 153A r/w. 149 I.P.C. Initially only accused 1 to 4 were arrayed. They, along with the other accused, had allegedly gone to the house of the defacto complainant. It is alleged that the accused persons had insisted that no one belonging to a community other than Christian community must be permitted to reside in that locality. One of the Christian landlords had let out his building to a Muslim tenant and the members of the unlawful assembly, including accused 1 to 4, had allegedly insisted that the tenant must be got vacated. Crime was registered. Accused 1 to 4 have by now been granted regular bail. Later, in the course of investigation, accused 5 to 8 have been brought on the array of accused.

2. The learned counsel for the petitioner submits that the allegations raised are totally justified. The defacto complainant knows the petitioner well and the allegation which had not been

raised earlier and which is raised now that the petitioner was also present along with the crowd of persons is clearly an after thought. The petitioner is a respectable public/social worker. He has been constrained to tread on the toes of some police officials and on account of such animosity, when occasion aroused, conveniently he has been dragged into the controversy. The petitioner is willing to abide by any conditions imposed. He may not be compelled to endure the undeserved trauma of arrest and detention, it is prayed.

3. The learned Prosecutor does not oppose the application, but he submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation.

4. In the nature of the controversy raised, the learned Prosecutor was requested to make the case diary available for my perusal. I have perused the case diary. I shall not embark on any detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected. I am in agreement that the petitioner can be granted anticipatory bail, subject to appropriate conditions.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 12.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer on 13.10.12007 and 14.10.1007 between 10 a.m. and 3 p.m. and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 12.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 12.10.2007 as directed in clause (1) above, he shall be released on bail on his executing

a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 12.10.2007.

(R. BASANT)
Judge

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